

**PLANNING COMMISSION MINUTES OF 05/23/05**

**2004-0963** – Appeal of the Administrative Hearing Officer's approval of an application for a Variance from Sunnyvale Municipal Code (SMC) section 19.34.030 to allow a 17-foot front yard second-story setback where 25 feet is required and SMC section 19.56.020 to allow shading of a nearby structure that exceeds 10 percent. Approval of the variance would allow a first and second-story addition to a one-story home resulting in a total of 1,737 square feet. The property is located at **321 Flora Vista Avenue** in an R-2 (Low-Medium Density Residential) Zoning District. (APN: 209-24-062) KD

**Trudi Ryan**, Planning Officer, explained that this is an unusual situation. This application was heard at the Administrative Hearing of May 11, 2005 and the Hearing Officer approved the application. There was a neighbor present that wanted to speak about the item, but it was unclear to him how the hearing process worked and he missed speaking during the public hearing time. Due to the misunderstanding, staff immediately agendaized the item for Planning Commission's consideration and notified neighbors, as required, of the public hearing.

**Chair Moylan** asked staff the procedure of presenting this item. Ms. Ryan responded that this is not an appeal by the neighbor and she would recommend that staff present report.

**Ms. Ryan** presented the staff report. This application is for two variances from the SMC and includes the Design Review for the home. The existing one-story home is on the Heritage Resource list. The applicant has designed the project to retain the architectural character of the home in the front of the house and to have a more updated contemporary look in the rear of the house. The first variance request is for the proposed addition on the north side of the property where the shading the neighbor's utility area roof would be 100% in the morning hours of the shortest day of the year where 10% is the maximum. The second variance request is for the front yard setback on the second story. The existing home is already closer to the street than the minimum setback requirement (12 ft., front façade, where 20 ft. is the minimum) and the proposed second story is for 17 ft. where 25 ft. is the minimum. At the Administrative Hearing staff recommended approval of both variances and the design review. The hearing was conducted and the neighbor was present at the hearing but did not speak so the comments he might have made were not considered in the decision. The staff recommendation is to uphold the decision of the Administrative Hearing Officer and approve both variances and the Design Review with conditions, including to reduce the bulk and to redesign the back stairway area.

**Comm. Babcock** asked about possible privacy issues to the parcels to the north. Ms. Ryan said the pages handed out at the Study Session show there are two properties that share the side property line and staff requested the reduction of the bulk of stairway is partly for privacy purposes. Ms. Ryan also said that staff feels the privacy issues from the second-story windows are minimal as there are not very many windows. There is one bathroom window and on the north side and there are two windows for light. Comm. Babcock commented that anyone walking out of the bedroom on to the deck would have a clear view of properties to the north. Ms. Ryan said that staff is recommending the deck area be reduced in size and bulk. Comm. Babcock asked how many living units are on the properties to north. Ms. Ryan said her general recollection was that, one living unit is at the corner and the second property has multiple units.

**Comm. Sulser** asked about the solar shading variance and if the purpose of including solar shading in the code was to make sure adjoining properties could install solar panels. Ms. Ryan said yes, that this code modification from the early 1980's was added to provide opportunity for alternate energy sources to be used. The maximum shading of abutting structures in the code reads that no more than 10% of a building roof can be shaded. Comm. Sulser asked if the Planning Commission is supposed to take the aesthetics of shading into consideration when reviewing applications. Ms. Ryan said that some members of the community are concerned with the shading of the yard area but that the Zoning code does not regulate this.

**Comm. Klein** asked about the site layout and asked for clarification about a "structure" at the rear of the site shown on the site diagram. Ms. Ryan said it is not a structure and it is a flat patio type area.

**Comm. Hungerford** confirmed with staff that the site is zoned for a second-story structure and that the Planning Commission is considering the design of the second story. Ms. Ryan said that is correct. There are two aspects of what is being considered. One is the variance for shading and setback and the other is the Design Review and how it looks.

**Chair Moylan opened the public hearing.**

**Gregory Maltz**, applicant, stated that his main goal with this project was to preserve as much of the existing Heritage Resource as possible. He requested that his architect make the presentation.

**Giddeo Ulinskas**, architect for the project, stated that he has enjoyed working on the project with Mr. Maltz as Mr. Maltz is wanting to preserve the existing Heritage Resource yet also create something reflecting of our time in an honest and truthful way. Blending the two has been a balancing act due to unusual, already existing, non-conforming conditions. The impact to neighbors has been kept in mind by scaling down the size of the windows, serving primarily for light,

and scaling down the elevation of the structure to minimize the impacts. The height of the structure could be much greater and still within code, but instead they have scaled the height down to make as minimal an impact as possible.

**Melco Genciv**, a neighbor, thanked the Commission for the opportunity to speak as he didn't understand the public hearing procedures at the Administrative Hearing. He stated that a two-story house is inappropriate for the neighborhood. He said the applicant's property is a little higher in elevation than his. He also said this house will block the south side of his house and that the shading should also be measured in June as the addition will shade his house. He commented that he has lived in the neighborhood for 30 years, has seen housing with multiple units be built and not complained, but he had to complain this time as he is opposed to having a two-story house next to his house.

**Jeffery Consana**, a neighbor, spoke in support of the project. He stated that he has seen the plans and thinks they are terrific. He feels this project is consistent with some of the newer projects done in the neighborhood. He would like to see this application approved as he likes this neighborhood and hopes to be able to expand and adapt his home someday, also a Heritage home, rather than have to move. He expressed his hope for the approval of this project and indicated that he feels projects like this could positively affect the neighborhood's stability.

**Mr. Ulinskas** commented that he and the applicant have responded to all of the City's shading code requirements by looking at the shading during both the Summer and Winter solstices at the required time periods. If the sun issue is critical, they are willing to do further study. He also commented that the neighbor most severely impacted by shading has issued a letter in support of the project. He expressed that this type of project invests in the value of the home and the neighborhood.

**Mr. Maltz** added that his intention is to stay in this neighborhood and that he cares very much about what his neighbors feel and think about the plan, including both neighbors that spoke tonight. He has tried very hard to weigh their concerns.

**Chair Moylan closed the public hearing.**

**Comm. Babcock made a motion for Alternative 1. to deny the appeal and uphold the Hearing Officer's approval of both Variances and the Design Review. Comm. Sulser seconded.**

**Comm. Babcock** said she is always in favor of being able to save a Heritage house if possible and applauds the creative ideas used in the design along with keeping this a single family home. She thinks this home will fit into the neighborhood very well and supports Condition of Approval 5. (COA) to

“...provide a modified south and rear elevation for the deck design that addresses the issues of bulk and apparent height...”.

**Comm. Sulser** said he also likes the design with the blending of the old and new architecture.

**Comm. Hungerford** said one of the pleasures of working on the Planning Commission is that it allows the Commissioners to look at a lot of different neighborhoods. He commented that he was charmed by this neighborhood and in particular this section of the street. He was initially concerned about putting a second story on this house, but according to code the applicant has the right to do so. Also, the applicant is not going to the maximum on the height and a good job has been done on the design to preserve the look of the house. He will be supporting this motion.

**Comm. Klein** commended the applicant in the effort to fit into the neighborhood by reducing the front façade to a limited degree. His only concern is one of privacy, and that with the reduction of the deck, this concern should be alleviated. He will also be supporting this motion.

**Comm. Simons** thanked the neighbor that came tonight with the concern of the second-story addition. He recommended that if there are any neighborhoods that want to keep their neighborhood single-story that they can talk to staff in the Planning Division about single-story overlay districts. He also will be supporting this motion.

**Chair Moylan** commented that it is always difficult to be the first, two-story house in a neighborhood. In this case he feels the second story is not as tall as one of the larger single stories on a neighboring property so it is more about how tall a building is than how many stories it is. He likes the Design Review with the stair case tucked back, concealing the more modern part of the home. He also can support the first variance, the front set back, as the only way to meet the required setback would be to knock down the house. He also supports the second variance, the shading issue, as the issue is caused by the neighbor's non-conforming garage set right up to the property line. He will be supporting the motion.

**Final Motion:**

**Comm. Babcock made a motion on Item 2004-0963 for Alternative 1. to deny the appeal and uphold the Hearing Officer's approval of both Variances and Design Review. Comm. Sulser seconded.**

**Motion carried unanimously, 6-0 with Comm. Fussell absent.**

**Item is appealable to City Council no later than June 7, 2005.**